

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.8027 OF 2006

Shri Ganesh Krishi Kendra : Petitioner

V/s.

The Maharashtra State Co-operative

Marketing Federation Ltd. : Respondent

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Ms Ashvini Hosing i/b. Mr.A.V.Chatuphale for the
petitioner.

None present for the respondent.

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CORAM : S.A.BOBDE, J.

DATE : JULY 6, 2007.

P.C.

1. By this petition, the petitioner has challenged the order of the Maharashtra State Co-operative Appellate Court dismissing his appeal against the judgement and award passed by the Co-operative Court, Mumbai.

2. The Marketing Federation filed a dispute in the Co-operative Court contending that the petitioner is a commission agent of the Government of Maharashtra to sell and promote consumer goods and that he is also a member of the Federation. According to the Federation, the

petitioner purchased chemicals and fertilisers which were supplied to him. When the balance was struck off on 30.9.2002, it was found that the petitioner was liable to pay a sum of Rs.11,12,132/-. The Federation demanded the balance amount by notice which the petitioner did not reply to.

3. Before the trial Court, though served, the petitioner failed to appear and, therefore, the trial Court passed an award in the sum of Rs.11,12,132/- together with further interest at the rate of 18% per annum from 1.10.2002 till realisation.

4. The petitioner filed an appeal against the award before the Co-operative Appellate Court which has dismissed the appeal. The only contention which may require consideration is whether the petitioner was a member which, however, is not disputed by the learned counsel for the petitioner in this Court.

5. The learned Co-operative Appellate Court has rightly observed that in view of section 21 of the C.P.C., no objection to the place of suing shall be allowed by any appellate or revisional Court, unless such objection was taken in the Court of first instance at the earliest possible opportunity. Hence, the petitioner was rightly

prevented from raising the question of jurisdiction of the Co-operative Court at Mumbai.

6. In the circumstances of the case, there is no merit in this Writ Petition which is dismissed.

S.A. BOBDE, J.